

BRUCE A. DeROSIER

IBLA 82-12

Decided October 30, 1981

Appeal from decision of Oregon State Office, Bureau of Land Management, declaring unpatented mining claims abandoned and void. 3833 (943.3).

Affirmed.

1. Federal Land Policy and Management Act of 1976: Recordation of Mining Claims and Abandonment

Under 43 U.S.C. § 1744 (1976) and 43 CFR 3833.1-2, the owner of an unpatented mining claim located on or before Oct. 21, 1976, must file a copy of the official record of the notice or certificate of location for such claim with the proper Bureau of Land Management Office on or before Oct. 22, 1979. This requirement is mandatory and failure to comply conclusively constitutes an abandonment of the claim by the owner.

2. Notice: Generally -- Regulations: Generally -- Statutes
All persons dealing with the Government are presumed to have knowledge of relevant statutes and duly promulgated regulations.

APPEARANCES: Bruce A. DeRosier, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

On June 8, 1981, Bruce A. DeRosier filed in the Oregon State Office, Bureau of Land Management (BLM), proofs of labor for the

unpatented Apex Fraction, Apex Extension, and Apex #1, #2, and #3 lode mining claims, situated in secs. 27 and 34, T. 36 S., R. 4 W., Willamette meridian, Jackson County, Oregon. BLM returned the instrument with the request that the BLM "OR MC" serial numbers be affixed on the instrument, with advice that the "OR MC" numbers are required to be shown so that the instrument can be applied to the correct claims.

On July 24, 1981, DeRosier resubmitted the proofs of labor on which he had placed the book and page number of the record of the location notices in Jackson County, Oregon.

By decision of August 24, 1981, BLM rejected the proof of labor and declared the subject mining claims abandoned and void because the notice of location had not been recorded with BLM as required by section 314 of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744 (1976), and 43 CFR 3833.1-2. DeRosier has appealed.

Appellant states he cannot understand what BLM serial numbers are nor how they are issued for mining claims. He asserted that his Apex group of claims have been properly recorded in Jackson County, Oregon, and that a proof of labor has been filed annually since the claims were located in 1960.

[1] Section 314 of FLPMA, 43 U.S.C. § 1744 (1976), requires the owner of unpatented lode or placer mining claims located on or before October 21, 1976, to file in the BLM office designated by the Secretary of the Interior, on or before October 22, 1979, a copy of the official record of the notice of location together with a description of the location sufficient to locate the mining claims on the ground. Section 314(c) states that failure to file the required instruments shall be deemed conclusively to constitute an abandonment of the mining claims by the owner.

As the subject mining claims were located in 1960 and copies of the notices of location were not filed with BLM on or before October 22, 1979, there has been no compliance with the statutory requirements for recordation of the unpatented Apex group of mining claims. Failure to comply with the statutory and regulatory requirements governing recordation of the unpatented mining claims must result in a conclusive finding that the claims have been abandoned and that they are void. Clyde W. Luke, 53 IBLA 136 (1981); Edward W. Kramer, 51 IBLA 294 (1980); 43 U.S.C. § 1744(c); 43 CFR 3833.4(a).

[2] Appellant's argument indicates that he was unaware that his claims were required to be recorded with BLM. This fact, however, does not change the result in this case. All persons dealing with the Government are presumed to have knowledge of relevant statutes and duly promulgated regulations. Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947); Edwin Forsberg, 47 IBLA 235 (1980); 44 U.S.C. §§ 1507, 1510 (1976).

This Board has no authority to excuse noncompliance with statutory requirements or to afford relief from the statutory consequences. Lynn Keith, 53 IBLA 192, 88 I.D. 369 (1981).

Identifying serial numbers for mining claims are assigned by BLM to mining claims for which notices of location are timely and properly filed.

Appellant may wish to consult with BLM about the possibility of relocating these claims.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Douglas E. Henriques
Administrative Judge

We concur:

Bernard V. Parrette
Chief Administrative Judge

James L. Burski
Administrative Judge

